



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,157	06/01/2001	Teruo Horizumi	208937US0PCT	9142

22850 7590 08/11/2004

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

HOWARD, SHARON LEE

ART UNIT	PAPER NUMBER
----------	--------------

1615

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/856,157

Applicant(s)

HORIZUMI ET AL.

Examiner

Sharon L. Howard

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/12/04.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

The examiner acknowledges receipt of the amendment and the remarks filed on 7/12/04.

Status of the Claims

Claims 1-19 are pending.

Claims 3,4,11-13 have been cancelled.

Claims 1 and 5 are currently amended.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,5-10,14-19 remain rejected under 35 U.S.C. 103(a) as being unpatentable over the JP '527 reference.

The JP '527 reference teaches a cosmetic sheet comprising an aqueous gel sheet which known in the art for conditioning and beautifying the skin. The JP '527 document teaches 3 to 25% of a water-soluble polymer, gelatin and an additional water soluble polymer, polyacrylate (see page 9, at [0006, lines 1-9]), an agar gel (see page 18, at [0014] as well as 0.01 to 20% of a moisture-keeping component which is a humectant (see page 11, at [0008, lines 8-46].

The JP '527 reference does not teach the particular properties of having a gel

Art Unit: 1615

strength nor an adhesion force.

However, with respect to the silent teaching of the particular properties, there are no unexpected results, since the prior art teaches a cosmetic sheet which has a suitable tackiness to the skin, has excellent in the aging stability of the preparation properties and has an excellent cooling effect due to a high water content (see page 44).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of the JP '527 reference. One having ordinary skill in the art would have been motivated to prepare a cosmetic sheet of the JP '527 reference comprising an aqueous gel, water-soluble polymers and a humectant.

The expected result would be a cosmetic sheet which comprises an aqueous gel, an agar gel, as well as an additional water-soluble polymer and a humectant.

Response to Arguments

Applicant's arguments filed 7/12/04 have been fully considered but they are not persuasive. Applicant argues that the water soluble polymer is described in paragraph [0006] as gelatin or a polyacrylate. None of these is suggestive of an agar as claimed.

The polyhydric alcohol is described at paragraph [0007] as a polyhydric alcohol and glycols. None of these components disclose or suggest an agar as claimed.

The moisture-keeping agent is described at paragraph [0008] as acylation Kefiran aqueous solution. This component does not disclose or suggest an agar as claimed.

The crosslinking component is described at paragraph [0009] as a poor-water solubility aluminum compound and a polyfunctional epoxy compound. None of these components disclose or suggest an agar as claimed.

The beautiful skin component is described in paragraph [0010]. None of these components disclose or suggest an agar as claimed.

In contrast, the present invention is directed to a sheet cosmetic comprising a single-layered aqueous gel sheet comprising an agar having a gel strength of 600 g/cm^2 or less, and which is obtained by subjecting raw seaweed having a sulfate group content of 1-10% to extraction in neutral hot water. As the cited reference fails to disclose or suggest a sheet cosmetic comprising an agar having a gel strength of 600 g/cm^2 or less, and which is obtained by subjecting raw seaweed having a sulfate group content of 1-10% to extraction in neutral hot water, the claimed invention is simply not rendered obvious by the cited reference.

In response to applicant's argument, the JP '527 does teach a cosmetic sheet comprising an aqueous gel sheet consisting of an agar gel (see page 18, at [0014]). There is no criticality in the selecting of the particular thickness or gel strength, one of ordinary skill in the art would determine these properties through routine experimentation since the prior art teaches how to obtain these properties. It is the position of the examiner that the teachings of the JP '527 reference renders the claims obvious and there is no patentable distinction seen over the teachings of the prior art of record. The rejection set forth above is maintained for reasons of record.

Art Unit: 1615

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon L. Howard whose telephone number is (571) 272-0596. The examiner can normally be reached on 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 1615

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sharon Howard
August 5, 2004

THURMAN K. PAGE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600